

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.168 of 2011

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1. Radhey Rai
2. Shambhu Rai
3. Baijnath Rai
4. Sunil Rai
5. Vijay Rai
6. Rajesh Rai All sons of Late Sukhlu Rai, S/o Late Lakhan Rai
7. Manju Devi @ Munakia Devi D/o- Late Sukhlu Rai, S/o Late Lakhan Rai
8. Butan Rai
9. Bishundeo Rai
10. Suresh Rai All sons of Late Lakhan Rai
11. Nawal Rai
12. Bharat Rai
13. Laxman Rai
14. Shatrughan Rai
15. Ramchandra Rai All sons of Late Basdeo Rai S/o of Lakhan Rai
16. Jahari Devi- D/o Late Basdeo Rai, S/o Late Lakhan Rai
17. Mostt. Basmati, wife of Late Basadeo Rai, S/o Late Lakhan Rai All are residents of village- Manika Bishunpur Chand, P.O.- Manika, P.S.- Mushahari, District- Muzaffarpur

.... Petitioner/s

Versus

1. (a) Panwati Devi Wife of Late Bhikhari Rai
1 (b). Vishwanath Rai
1.(c). Laxman Rai
1 (d). Jai Mangal Rai All 2 to 4 are S/o Late Bhikhari Rai, R/o- Manika Bishunpur Chand, P.O.- Manikapur, P.S.- Mushahari, District- Muzaffarpur
1. (e). Tetri Devi D/o Late Bhikhari Rai, W/o Ram Babu Rai R/o Village- Madhubani, P.S.- Minapur, District- Muzaffarpur
2. Mahesh Rai
3. Ganesh Rai
4. Chandeshwar Rai
5. Ramesh Rai
6. Bindeshwar Rai All sons of Late Pathalu Rai
7. Mostt. Pachia, W/o Late Pathalu Rai All residents of village- Manika Bishunpur Chand, P.O.- Manika, P.S.- Mushahari, District- Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Manoj
For the Respondent/s : Mr. S. S. Dwivedi, Senior Advocate

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

15 09-01-2015

Heard learned Counsel for the petitioners and Mr. S. S.

Dwivedi, learned Senior Counsel for the Opposite parties.

The plaintiffs in the suit have filed this revision application assailing the order dated 13.5.2011 by which the learned court below has held that the suit has abated under Section 4 (b) and Section 4(c) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1955.

Learned Counsel for the petitioners has submitted that though the suit was filed for partition but the entire suit land was not agricultural land and, therefore, not covered under the provisions of the aforesaid Consolidation Act.

Learned Senior Counsel for the Opposite parties, however, has pointed out that notification under Section 3 of the aforesaid Consolidation Act was made on 15.3.2004, but the suit had been filed thereafter on 28.9.2004. In support of the said fact learned Senior Counsel has produced certified copy of the plaint. No objection has been raised by the learned Counsel for the petitioners on that score, after perusal of the certified copy of the plaint. Mr. Dwivedi, therefore, has submitted that the matter was, in fact, covered under Section 4 (b) of the Consolidation and, therefore, the issue with regard to the nature of the land becomes immaterial.

After considering the submissions and careful consideration of the facts and circumstances of the case it is transparent from the order that the learned court below has come to the finding that the suit is covered by the provisions of Section 4 (b) and Section 4 (c) of the aforesaid Consolidation Act and, therefore, has abated.

It does not appear that the plaintiffs-petitioners anywhere

pointed before the court below the specific plot, which according to their contention, was not agricultural land and only a vague statement in that regard appears to have been made.

In view of the fact that the suit has been filed on 28.9.2004 when admittedly the relevant notification under Section 4 of the Consolidation Act has been made much before i.e. 15.3.2004, this Court is not persuaded to hold that the learned court below has committed any error of jurisdiction or material irregularity in passing the impugned order.

The revision application is, accordingly, dismissed.

(V. Nath, J)

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